

MINUTES

REGULAR MEETING OF THE CITY COUNCIL

CITY OF MEMPHIS

March 7, 2006

3:30 P.M. SCHEDULED SESSION

3:32 P.M. MEETING COMMENCED

ROLL CALL: Dedrick Brittenum, Joe Brown, Carol Chumney, Edmund Ford, Barbara Swearengen Holt, E. C. Jones, Myron Lowery, Tom Marshall, Scott McCormick, Rickey Peete, Jack Sammons and Chairman TaJuan Stout Mitchell. Brent Taylor was absent

THE MEETING WAS CALLED TO ORDER  
BY THE SERGEANT-AT-ARMS

INVOCATION

The meeting was opened with prayer by Jocelyn Wurzburg, Professional Legal Mediator. Councilwoman Chumney presented Ms. Wurzburg with a certificate naming her Chaplain of the day.

The original of the ordinances, resolutions and documents relating to each item is filed in the office of Council Records and on microfilm in the office of Records Management, Room 2B-08. The original documents shall control in the event of any conflict between the description in these minutes and the original documents.

24.
- ORDINANCE AMENDING SECTION 29, SIGNS AND SECTION 30, NONCONFORMITIES, UP FOR T H I R D AND F I N A L READING. (HELD FROM 10/25; 11/1;11/15;12/06; 12/20; 1/03; 1/17; 2/7).

Held until April 25, 2006

29.
- RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE EAST SIDE OF CLARKE ROAD; +195 FEET NORTH OF KNIGHT ARNOLD ROAD, CONTAINING 6.15 ACRES IN THE SINGLE FAMILY RESIDENTIAL (R-S6 & R-S8) DISTRICTS.

Case No. PD 05-380

Held until March 21, 2006

31.
- RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED ON WESLEY DRIVE, BETWEEN PACE ROAD AND FARONIA ROAD, CONTAINING 1.139 ACRES. (HELD FROM 11/01; 1/17; 2/7)

Case No. SAC 05-610

Held until April 25, 2006

CONSENT AGENDA – Items 1 – 7 & #33 - #40 may be acted upon by one motion. SEE PAGE 1838 FOR ROLL CALL

1.
- ORDINANCE AMENDING THE CITY OF MEMPHIS CODE OF ORDINANCES, CHAPTER 33 ARTICLE IV, DIVISION 3, STORM WATER ENTERPRISE FUND, TO REVISE THE RATE SCHEDULE AND TO SPECIFY AN IMPLEMENTATION DATE, UP FOR S E C O N D READING.

Ordinance No. 5157

**APPROVED**, on Second reading

2.
- ORDINANCE REZONING THE NORTHEAST CORNER OF MILL AVENUE AND SEVENTH STREET, CONTAINING 0.78 ACRE IN THE MIXED USE(MU) & MODERATE DENSITY RESIDENTIAL (MDR) DISTRICTS, UP FOR S E C O N D READING.**

Ordinance No. 5158

Case No. Z 05-137

**APPROVED**, on Second reading

3.
- ORDINANCE REZONING THE SOUTHEAST CORNER OF PENNSYLVANIA AVENUE AND ILLINOIS AVENUE, CONTAINING 2.02 ACRES IN THE HEAVY INDUSTRIAL (I-H) DISTRICT, UP FOR S E C O N D READING.**

Ordinance No. 5159

Case No. Z 05-140

**APPROVED**, on Second reading

4.
- RESOLUTION ACCEPTING CARLTON RIDGE P.D. AND AUTHORIZING RELEASE OF BOND.**

Case No. PD 01-338cc

(Contract No. CR-4755)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the north side of Macon Road, east of Hall Road. The standard improvement contract was approved on November 12, 2002. Resolution authorizes the release of the letters of credit in the total amount of \$371,000.00. This action is subject to County approval.

City Engineer recommends approval

**APPROVED**

5.
- RESOLUTION ACCEPTING RIALTO SQUARE SUBDIVISON, FIRST ADDITION AND AUTHORIZING RELEASE OF BOND.**

Case No. S 04-029

(Contract No. CR-4909)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located 796.36 feet to the centerline intersection of Rocky Point Road and Buckeye Road. The standard improvement contract was approved on November 23, 2004. Resolution also authorizes the release of the Letter of Credit (No. 114000333497) in the amount of \$13,300.00.

City Engineer recommends approval

**APPROVED**

6.
- RESOLUTION APPROVING FINAL PLAT OF WOODLAND HILLS II PD, PHASE 2, PART OF AREA.**

Case No. PD 04-343cc

Contract No. CR-4997

Resolution approves the final plat located at the terminus of Woodland Trees Drive, 140.5 feet south of Woodland Vista Drive. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract. This action is subject to County approval.

City Engineer recommends approval

**APPROVED**

- A. Case No. PD 05-369 – Donatti Planned Development
- B. Case No. PD 05-382
- C. Case No. PD 05-383cc – Winchester/Hackscross Rd. PD, 4<sup>th</sup> Amendment
- D. Case No. PD 02-314 –First Assembly of God P.D., Amended  
(Companion Case: Z 1692)
- E. Case No. Z 1692 – The Village Green Shopping Center  
(Companion Case: PD 02-314)

Public Hearing Set for March 21, 2006

Case No. PD 01-319cc  
Contract No. CR-4998

Resolution approves the final plat located on the north and south sides of Eckley Place, 187.46 feet east of Darren Circle West. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract. This action is subject to County approval.

City Engineer recommends approval

**APPROVED**

Case No. PD 05-326cc  
Contract No. CR-4999

Resolution approves the final plat located on Holmes Road, east of Hacks Cross. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract. This action is subject to County approval.

City Engineer recommends approval

**APPROVED**

Case No. PD 04-370cc  
Contract No. CR-5000

Resolution approving final plat located on the northeast side of Berryhill Road, 652.48 feet southeast of Berry Bush Lane. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract. This action is subject to County approval.

City Engineer recommends approval

**APPROVED**

Case No. PD 04-370cc  
Contract No. CR-5001

Resolution approves the final plat located northeast of Berryhill Road, southeast of Berry Bush Lane. Cost of the required improvements to be borne by the developer. Resolution also authorizes the proper officials to execute the attached standard improvement contract. This action is subject to County approval.

City Engineer recommends approval

**APPROVED**

37.   **RESOLUTION ACCEPTING CORDOVA RIDGE P.D., 4<sup>TH</sup> AMENDMENT, PHASE 7, PARCEL II AND AUTHORIZING RELEASE OF BOND.**
- Case No. PD 02-360cc  
(Contract No. CR-4851)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the south side of Macon Road, 1,073 feet east of Houston Levee Road. The standard improvement contract was approved on February 3, 2004. Resolution also authorizes the release of the letter of credit in the amount of \$41,000.00. This action is subject to County approval.

City Engineer recommends approval

**APPROVED**

38.   **RESOLUTION ACCEPTING PEMBERTON MEADOWS P.D. AND AUTHORIZING RELEASE OF BOND.**
- Case No. PD 04-331cc  
(Contract No. CR-4923)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located on the north side of Holmes Road and the east side of Wemberley Drive. The standard improvement contract was approved on February 1, 2005. Resolution also authorizes the release of the letters of credit in the total amount of \$50,700.00. The action is subject to County approval.

City Engineer recommends approval

**APPROVED**

39.   **RESOLUTION APPROVING ENGINEERING PLANS OF UNIVERSITY PLACE SEWER IMPROVEMENTS, PHASE 1.**
- Contract No. CR-5002

Resolution approves the final plat located on the southeast corner of Crump Blvd. and Sommerville Street. Cost of the required improvements to be borne by the agency and the contractor. Resolution also authorizes the proper officials to execute the attached standard improvement contract.

City Engineer recommends approval

**APPROVED**

40.   **RESOLUTION APPROVING TEMPORARY STRUCTURES ON THE STREET ON SATURDAY, MARCH 25, 2006 FROM 7:00 A.M. UNTIL 9:00 A.M. FOR THE 13<sup>TH</sup> ANNUAL 5K RUN FOR CHRIST METHODIST.**

**APPROVED**

**ROLL CALL CONSENT ITEMS**

- MOTION:   Marshall
- SECOND:   Peete
- AYES:      Brittenum, Brown, Ford, Holt, Jones, Lowery, Marshall, McCormick, Peete,  
              Sammons and Chairman Mitchell  
              Chumney abstained  
              Taylor was absent

**APPROVED**

**MLGW FISCAL CONSENT – Items 8 – 15 & #17 may be acted upon by one motion**

8. RESOLUTION AWARDDING CONTRACT NO. 11081, AIR INTAKE, TO BARNES & BROWER, INC., IN THE FUNDED MOUNT OF \$109,924.00.

**APPROVED**

9. RESOLUTION AWARDDING CONTRACT NO. 11083, PROJECT SAS 70, TYPE II REPORT, TO WATKINS UIBERALL,PLLC, IN THE FUNDED AMOUNT OF \$75,000.00.

**APPROVED**

10. RESOLUTION AWARDDING CONTRACT NO. 11090, SERENA MASTER LICENSE AGREEMENT, TO SERENA SOFTWARE, INC., IN THE FUNDED AMOUNT OF \$52,682.05.

**APPROVED**

11. RESOLUTION AWARDDING CONTRACT NO. 11097, GROUNDS AND LANDSCAPING SERVICES, TO ENVIRONMENTAL LANDSCAPE, IN AN ESTIMATED FUNDED AMOUNT OF \$67,081.00.

**APPROVED**

12. RESOLUTION APPROVING CHANGE NO. 9 TO CONTRACT NO. 10642, GROUNDS MAINTENANCE, WITH BEAN & PRINCE CONTRACTORS, INC., IN AN ESTIMATED FUNDED AMOUNT OF \$565,477.77. (THIS RENEWS THE CONTRACT FOR THE SIXTH AND FINAL RENEWAL BEGINNING MARCH 16, 2006 TO MARCH 15, 2007.)

**APPROVED**

13. RESOLUTION APPROVING CHANGE NO. 2 TO CONTRACT NO. 10812, GROUNDS AND LANDSCAPING SERVICES “CENTRAL,” WITH MAJESTIC LANDSCAPING, IN AN ESTIMATED FUNDED AMOUNT OF \$25,854.05. (THIS RENEWS THE CONTRACT FOR THE FOURTH AND FINAL TERM BEGINNING APRIL 1, 2006 TO MARCH 31, 2007.)

**APPROVED**

14. RESOLUTION APPROVING EXPEDITED PROCUREMENT REQUEST FOR CHANGE NO. 4 TO CONTRACT NO. 10877, WIRELESS COMMUNICATIONS, WITH NEXTEL COMMUNICATIONS, IN AN ESTIMATED FUNDED AMOUNT OF \$80,000.00. (THIS RENEWS THE CONTRACT FOR THE FOURTH AND FINAL RENEWAL BEGINNING SEPTEMBER 30, 2005 TO SEPTEMBER 29, 2006.)

**APPROVED**

15. RESOLUTION AWARDDING CONTRACT FOR CWS PIPE AND FITTINGS TO CONSOLIDATED PIPE AND SUPPLY IN THE AMOUNT OF \$38,675.40.

**APPROVED**

16. RESOLUTION AWARDDING 36-MONTH CONTRACT FOR RENTAL OF COPY MACHINES AS FOLLOWS:

NOVA COPY, INC.....	\$ 125,580.96
THE OFFICE PRODUCT STORE.....	260,863.20
IKON OFFICE SOLUTIONS.....	<u>102,240.00</u>

## Sent Back to Committee

- APPROVED**

MOTION: Ford  
SECOND: Holt  
AYES: Brittenum, Brown, Chumney, Ford, Holt, Lowery, Marshall, McCormick, Peete  
and Chairman Mitchell  
Jones abstained  
Sammons did not cast a vote  
Taylor was absent

**APPROVED**

**(Councilwoman Chumney made a motion for item #41, from February 21, 2006 Meeting, be reconsidered from the Minutes and Sent Back to Committee).**

MOTION: Chumney  
SECOND: Sammons  
AYES: Brown, Chumney, Ford, Holt, Jones, Lowery, Peete and Sammons  
NAYS: Brittenum, Marshall, McCormick and Chairman Mitchell  
Taylor was absent

**(Councilwoman Chumney also made a motion for item#38, from February 21, 2006 Meeting, be reconsidered, but this motioned failed, due to not being seconded).**

MOTION: Holt  
SECOND: Ford  
AYES: Brittenum, Chumney, Ford, Holt, Jones, Lowery, Marshall, McCormick, Peete,  
Sammons and Chairman Mitchell  
Brown did not cast a vote  
Taylor was absent

18. **ORDINANCE AMENDING CHAPTER 41, CODE OF ORDINANCES, CITY OF MEMPHIS, SO AS TO UPDATE REGULATIONS FOR WRECKERS AND TOWING OPERATORS WITHIN THE CITY OF MEMPHIS, UP FOR T H I R D AND F I N A L READING.(HELD FROM 10/11; 10/25;11/1; 12/6; 1/03; 1/17; 2/21)**  
Ordinance No. 5133

19. **RESOLUTION TRANSFERRING AND APPROPRIATING \$350,000.00 FUNDED BY G.O. BONDS GENERAL FROM CIP PROJECT NUMBER IS01007, REPLACE OBSOLETE EQUIPMENT TO CIP PROJECT NUMBER IS01013, TREASURY SYSTEMS REPLACEMENT.**

MOTION: Sammons  
 SECOND: Marshall  
 AYES: Brittenum, Brown, Ford, Holt, Jones, Lowery, Marshall, McCormick, Peete, Sammons and Chairman Mitchell  
 NAY: Chumney  
 Taylor was absent

**APPROVED**

20. **RESOLUTION TRANSFERS ALLOCATIONS OF \$111,000.00 FROM ADA FACILITY COMPLIANCE, CIP PROJECT NUMBER GS01010, \$35,000.00 FROM CITY-WIDE ENERGY MODIFICATIONS, CIP PROJECT NUMBER GS01003 AND \$174,836.00 FROM TENNIS IMPROVEMENTS, CIP PROJECT NUMBER PK03001 TO BELLEVUE AND WOLBRECHT TENNIS CENTERS, CIP PROJECT NUMBER PK03002 CONTRACT CONSTRUCTION AND APPROPRIATES \$441,920.00 IN BELLEVUE AND WOLBRECHT TENNIS CENTERS, CIP PROJECT NUMBER PK03002 CONTRACT CONSTRUCTION, FUNDED BY G.O. BONDS GENERAL AND CHARGEABLE TO FISCAL YEAR 2006 CAPITAL IMPROVEMENT BUDGET.**

MOTION: McCormick  
 SECOND: Holt  
 AYES: Brittenum, Brown, Ford, Holt, Lowery, Marshall, McCormick, Peete, Sammons and Chairman Mitchell  
 NAY: Chumney  
 Jones abstained  
 Taylor was absent

**APPROVED**

21. **RESOLUTION AMENDS THE FY 2006 CIP BUDGET BY TRANSFERRING AN APPROPRIATION OF \$161,000.00 FROM ARCHITECT/ENGINEERING TO CONSTRUCTION AND APPROPRIATING \$413,000.00 IN CONTRACT CONSTRUCTION AND \$151,000.00 IN ART CONSTRUCTION FUNDED BY LOCAL OTHER CIP CHARGEABLE TO THE FISCAL YEAR 2006 CAPITAL IMPROVEMENT BUDGET FOR THE LUCY CANCER SURVIVORS PARK, CIP PROJECT NUMBER PK07079.**

MOTION: McCormick  
 SECOND: Holt  
 AYES: Brittenum, Brown, Chumney, Ford, Holt, Jones, Lowery, Marshall, McCormick, Peete, Sammons and Chairman Mitchell  
 Taylor was absent

**APPROVED**

22. **RESOLUTION APPROVING CONTINUATION OF PLANS AND SPECIFICATIONS AND TAKING OF BIDS AT AN ESTIMATED CONSTRUCTION COST OF \$3,000,000.00 FUNDED BY G.O. BONDS GENERAL FOR LIBERTY BOWL RESTROOMS PHASE 1 IMPROVEMENTS.**

Council did include Liberty Bowl Stadium Improvements, CIP Project Number PK10001 as part of the 2006 Capital Improvement Program

MOTION: McCormick  
 SECOND: Sammons  
 AYES: Brittenum, Brown, Chumney, Ford, Holt, Jones, Lowery, Marshall, McCormick, Peete, Sammons and Chairman Mitchell  
 Taylor was absent

**APPROVED**

23.     **RESOLUTION APPROPRIATING \$345,040.00 IN WHITEHAVEN TENNIS CENTER, CIP PROJECT NUMBER PK03003 CONTRACT CONSTRUCTION, FUNDED BY G.O. BONDS GENERAL AND CHARGEABLE TO FISCAL YEAR 2006 CAPITAL IMPROVEMENT BUDGET.**

MOTION:     McCormick  
SECOND:     Sammons  
AYES:        Brittenum, Brown, Ford, Holt, Jones, Lowery, Marshall, McCormick, Peete, Sammons and Chairman Mitchell  
NAY:          Chumney  
               Taylor was absent

**APPROVED**

41.     **RESOLUTION EXTENDING THE \$2 EMERGENCY GAS SURCHARGE FOR TAXI INDUSTRY UNTIL SEPTEMBER 5, 2006 AND AT THAT TIME THE COUNCIL WILL REVIEW AND DETERMINE IF IT NEEDS TO BE CONTINUED.**

MOTION:     Chumney  
SECOND:     Holt  
AYES:        Brittenum, Brown, Chumney, Ford, Holt, Jones, Lowery, Marshall, McCormick, Peete, Sammons and Chairman Mitchell  
               Taylor was absent

**APPROVED**

25.     **ORDINANCE REZONING THE NORTHEAST CORNER OF MONROE AVENUE AND AVALON STREET, CONTAINING 0.20 ACRE IN THE LOCAL COMMERCIAL (C-L) DISTRICT, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5154  
Case No. Z 05-128

Applicant:   Pinnacle Homes, LLC  
               Michael Fahy – Representative  
  
Request:      Single Family Residential (R-S6) District  
  
LUCB and OPD recommendation:   APPROVAL

MOTION:     Peete  
SECOND:     Holt  
AYES:        Brittenum, Brown, Chumney, Ford, Holt, Jones, Lowery, Marshall, McCormick, Peete, Sammons and Chairman Mitchell  
               Taylor was absent

**APPROVED**

26.     **ORDINANCE REZONING +200 FEET EAST OF RIDGEWAY ROAD; +200 FEET SOUTH OF WINCHESTER ROAD, CONTAINING 19.452 ACRES IN THE HIGHWAY COMMERCIAL (C-H) DISTRICT, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5155  
Case No. Z 05-136

Applicant:   Safeway Plaza, Inc., Rafat Shaikh  
               Homer Branan – Representative  
  
Request:      Planned Commercial (C-P) District  
  
LUCB and OPD recommendation:   APPROVAL, with conditions  
  
MOTION:     Peete  
SECOND:     Brown



AYES: Brown, Chumney, Ford, Holt, Jones, Lowery, Marshall, McCormick, Peete, Sammons and Chairman Mitchell  
Brittenum recused  
Taylor was absent

**APPROVED**

27. **ORDINANCE REZONING THE EAST SIDE OF AIRWAYS BOULEVARD; +/-2,240 FEET NORTH OF STATELINE ROAD, CONTAINING 4.38 ACRES IN THE SINGLE FAMILY RESIDENTIAL (R-S8) DISTRICT, UP FOR T H I R D AND F I N A L READING.**

Ordinance No. 5156  
Case No. Z 05-138

Applicant: City Auto Finance, LLC

Request: Light Industrial (I-L) District

LUCB and OPD recommendation: APPROVAL, of the Light Industrial (I-L) District

MOTION: Peete  
SECOND: Jones  
AYES: Brittenum, Brown, Chumney, Ford, Holt, Jones, Lowery, Marshall, McCormick, Peete, Sammons and Chairman Mitchell  
Taylor was absent

**APPROVED**

28. **RESOLUTION APPROVING AN APPEAL LOCATED ON THE EAST SIDE OF BERRYHILL ROAD, OPPOSITE BERRY BUSH LANE.**

Case No. PD 04-370cc

Appellant: Danny Tabrizi for Fountain Brook, LLC

Request: Overturn the decision of the Memphis/Shelby County Land Use Control Board on 01/12/06 which rejected the appellant’s request to delete the requirement for road improvements to Berryhill Road as required by the Outline Plan Conditions for Fountain Brook Planned Development

LUCB and OPD recommendation: REJECTION

MOTION: Peete  
SECOND: Brown  
AYES: Brittenum, Brown and Jones  
NAYS: Chumney, Lowery, Marshall, McCormick, Peete, Sammons and Chairman Mitchell  
Ford and Holt abstained  
Taylor was absent

**FAILED**

30. **RESOLUTION APPROVING AN APPEAL LOCATED ON THE EAST SIDE OF BLAKE ROAD; +168.75 FEET NORTH OF ROCKY POINT ROAD, CONTAINING 2.0 ACRES IN THE SINGLE FAMILY DWELLING ~ SINGLE FAMILY RESIDENTIAL (R-S6) DISTRICT.**

Case No. S 05-081

Chairman Mitchell recognized the following person from the audience:  
Bill Brown, 1138 N. Germantown Rd., Cordova, TN. 38016

Appellant: David Jumper

Request: Eight (8) Lot Preliminary Plat Preliminary Plat. Mr. Jumper is making this appeal in effort to develop this subdivision with an eight (8) lot plan with a cove rather than an eight (8) lot plan with a street stub connection to Versilia Avenue

LUCB and OPD recommendation: REJECTION

MOTION: Peete

SECOND: Holt

AYES: Chumney, Ford, Holt, Jones, Lowery, Marshall, McCormick, Peete, Sammons and Chairman Mitchell

Brittenum and Brown did not cast a vote

Taylor was absent

**APPROVED**

32. **RESOLUTION APPROVING A STREET/ALLEY CLOSURE LOCATED ON KENTUCKY STREET AT RAILROAD AVENUE, CONTAINING 8,869 SQUARE FEET.**  
Case No. SAC 05-625

Chairman Mitchell recognized the following person from the audience:  
Tony Watts, 767 S. Kentucky, Memphis, TN. 38103

**(Councilwoman Holt made a motion for this item to be delayed for 2 weeks, this was seconded by Councilman Peete).**

Held until March 21, 2006

**(Special Item#2) Approval of the Minutes of Item#41 of March 7, 2006 Meeting with the following motion:**

MOTION: McCormick

SECOND: Marshall

AYES: Brittenum, Chumney, Ford, Holt, Jones, Lowery, Marshall, McCormick, Peete and Chairman Mitchell

Brown and Sammons did not cast a vote

Taylor was absent

**(Minutes for Item#41, APPROVED)**

**INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:**

Chairman Mitchell recognized the following people from the audience:  
Eddie Garner, 964 Idlewild, Memphis, TN. 38107  
Glenn McNeeese, 4070 Reenie

**ADJOURNED MEETING AT 6:00 P.M.**

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

Attest:

CHAIRMAN

Deputy Comptroller/Council Records